THE HON'BLE SRI JUSTICE V.ESWARAIAH

WRIT PETITION No.22339 of 2007

Between:

Sri Challagulla Samuel and others.

.. PETITIONERS

and

The District Collector and others.

.. RESPONDENTS

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THE HON'BLE SRI JUSTICE V.ESWARAIAH

WRIT PETITION No.22339 of 2007

ORDER:

Heard the learned counsel appearing for the petitioners and the

learned Government Pleader for Revenue appearing for the respondents.

It is the case of the petitioners that they are the owners and possessors of various extents of agricultural land ranging between 2 and 3 acres each in R.S.Nos.143, 144 and 145 situated at Vaivaka Village, Mudinepalli Mandal, Krishna District, having acquired through various proceedings during the years 1993-1995. It is stated that as per the conditions of D-Form Pattas granted in their favour, the said lands are used not only for agricultural purpose, but they can also be used for growing fishes. It is stated that all of them are cultivating their lands and growing fishes along with adjacent landowners. While so, pursuant to the orders issued by the Government and the instructions issued by the Collector, Krishna District, to take appropriation action in respect of all the persons, whoever violated the provisions of Section 3(1) or Section 3(2) of A.P.Assigned Lands (Prohibition of Transfers) Act, 1977 (for short "the Act"), the 3rd respondent without issuing any notice to the petitioners passed the impugned order in RC.No.641/2007, dated 12-10-2007, resuming the lands in question into the Government custody, in exercise of powers conferred under Section 4 (1) (a) of the Act. It is stated that the 4th respondent is not the lessee of the petitioners and they have not sold or alienated the said lands in favour of the 4th respondent and the 4th respondent is nothing to do with the lands in question and they themselves enjoying the said lands by cultivating and growing fishes.

It is further stated that as per Rule 3 of A.P.Assigned Lands (Prohibition of Transfer) Rules, 2007, the Authorised Officer before passing order under Section 4 (1) (a) of the Act, shall issue notice in Form-I to the assignees and Form-II to the transferee of the said assigned lands. However, in the instant case, notices in Form-I have not been issued to the assignees, but notice in Form II has been issued in favour of the so-called transferee i.e., 4th respondent herein.

I am not inclined to express any opinion as to whether the petitioners violated any provisions of Section 3(1) or Section 3(2) of the Act and whether the notices have been issued to the petitioners or not. But, as the impugned

order is an appealable order, I am of the opinion that it is just and proper to permit the petitioners to file appeal under Section 4-A (1) of the Act before the Revenue Divisional Officer, Gudiwada, Krishna District.

Accordingly, the writ petition is disposed of permitting the petitioners to file appeal against the impugned order passed by the Tahsildar, Mudinepalli Mandal, Krishna District, in proceedings in RC.No.641/2007, dated 12-10-2007, within ten days from the date of receipt of a copy of this order. If any such appeal is filed within ten days from the date of receipt of a copy of this order, the respondents are directed not to dispossess the petitioners from the lands in question, pending disposal of the appeal. There shall be no order as to costs.

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22-10-2007

Note:

Issue C.C. by tomorrow

(B/o)

Prv